

§ 572.220

24 CFR Ch. V (4–1–03 Edition)

properties, and the general rights and responsibilities of homeownership.

(l) *Property management and holding costs.* Reasonable and necessary costs related to properly maintaining and securing eligible properties after acquisition or donation and before sale to an eligible homebuyer. These costs may include property insurance expenses, security costs, property taxes, utility charges, and other costs related to sound property management of recipient-owned properties before sale under the program. These costs may not be charged relative to eligible properties donated to the program by the recipient or another entity that HUD determines does not have an “arm’s length” relationship with the recipient.

(m) *Recipient training needs.* Defraying costs for ongoing training needs of the recipient for courses of instruction that are directly related to developing and carrying out the homeownership program.

(n) *Economic development.* Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program. The economic development activities must be directly related to the homeownership program, and may only benefit families and individuals who are homeowners or who have been selected as homebuyers under the program. These costs are limited to job training or retraining and day care costs of those participating in job training and retraining activities approved under the HOPE 3 program. The recipient must enter into written agreements with the providers of economic development services specifying the services to be provided, including estimates of the numbers of homebuyers and homeowners to be assisted. The aggregate amount of planning and implementation grants that may be used for economic development activities related to any one program may not exceed \$250,000.

(o) *Administrative costs.* Reasonable and necessary costs, as described and valued in accordance with the OMB Circular Nos. A–87 or A–122, as applicable, incurred by a recipient in carrying out the HOPE 3 program. The total amount that may be spent on administrative activities from the implemen-

tation grant and any contribution toward the match may not exceed 15 percent of the amount of the grant. For purposes of complying with the 15 percent limitation, administrative costs do not include the cost of activities that are separately eligible under this section.

(p) *Other activities.* Other activities proposed by the applicant, to the extent the applicant justifies them as necessary for the proposed homeownership program and HUD approves them.

[58 FR 36526, July 7, 1993, as amended at 64 FR 50226, Sept. 15, 1999]

§ 572.220 Implementation grants— matching requirements.

(a) *General requirements.* (1) Except as provided in paragraph (a)(3) of this section, each recipient must assure that matching contributions equal to not less than 33 percent (or 25 percent for grants awarded after April 11, 1994) of the amount of the implementation grant shall be provided from non-Federal sources to carry out the homeownership program. Amounts contributed to the match must be used for eligible activities or in accordance with the requirements of this section.

(2) All contributions toward eligible activities to be counted toward the match must be provided no later than the deadline for completion of program activities established in accordance with § 572.210(f), except as permitted under paragraphs (b)(1)(iv) and (b)(3) of this section.

(3) When the recipient is an IHA, and the IHA (acting in that capacity) has not received, and will not receive, amounts under title I of the Housing and Community Development Act of 1974 for the fiscal year in which HUD obligates HOPE grant funds, the match requirements under this section will not apply.

(b) *Form.* Contributions may only be in the form of:

(1) *Cash contributions.* (i) Cash contributions from non-Federal resources contributed permanently for uses under the HOPE 3 program by the applicant, non-Federal public entities, private entities, or individuals, except that a cash contribution in the form of a down payment made by an eligible family may not count as a matching

contribution. Funds will be considered permanently contributed if all principal, interest, and any other return on the contribution are used for eligible activities in accordance with program requirements.

(ii) Non-Federal resources may include:

(A) Contribution of trust funds held by Federal agencies for Indian tribes;

(B) PHA section 8 operating reserve funds, where approved by HUD;

(C) Income from a Federal grant earned after the end of the award period, if no Federal programmatic requirements govern the disposition of the program income.

(D) Amounts, determined in accordance with paragraph (b)(1)(iv)(B) of this section, that have been requested by the applicant in an application submitted to the Federal Housing Finance Board for assistance under its affordable housing program, so long as the application is approved within 30 days of HUD's conditional approval of the HOPE 3 application.

(iii) Non-Federal resources may not include:

(A) Funds from a Community Development Block Grant under section 106(b) or section 106(d), respectively, of the Housing and Community Development Act of 1974, except to the extent permitted for administrative expenses under paragraph (b)(2) of this section;

(B) Federal tax expenditures, including low-income housing tax credits.

(iv) The grant equivalent of a below-market interest rate loan to the homebuyer from non-Federal resources, where all repayments, interest, and other return will not be permanently contributed to the HOPE 3 program, may be counted as a cash contribution. The grant equivalent of a below market interest rate loan must be calculated in accordance with paragraphs (b)(1)(iv) (A) and (B) of this section—

(A) If the loan is made from proceeds of obligations issued by or on behalf of a public body that are exempt from taxation by the United States, the contribution is the present discounted cash value of the difference between payments to be made on the borrowed funds and payments to be received on the loan to the homebuyer, based on a

discount rate equal to the interest rate on the borrowed funds;

(B) If the loan is made from funds other than under paragraph (b)(1)(iv)(A) of this section, the contribution is the present discounted cash value of the yield forgone, calculated based on a discount rate approved or prescribed by HUD. In determining the yield forgone, the recipient must use as a measure of a market yield one of the following, as appropriate:

(1) With respect to housing financed with a fixed interest rate mortgage, a rate equal to the 10-year Treasury note rate plus 200 basis points; or

(2) With respect to housing financed with an adjustable interest rate mortgage, a rate equal to the one-year Treasury bill rate plus 250 basis points.

(v) Cash contributions may also be made from sales proceeds from the Turnkey III Homeownership and Mutual Help programs, as approved by HUD, or an approved homeownership program under section 5(h) of the 1937 Act.

(2) *Administrative costs.* (i) Contributions of eligible administrative services up to a value equal to 7 percent of the amount of the implementation grant. This limitation is in addition to the 15 percent limitation on administrative costs (see § 572.215(o)).

(ii) If an applicant proposes to contribute administrative services, HUD will automatically approve an applicant's assurances for matching purposes that it will pay eligible administrative costs from non-Federal sources in an amount up to 7 percent of the implementation grant, and will not require further documentation of those expenditures for purposes of the HOPE 3 program. If a recipient uses more than 8 percent of its implementation grant to pay administrative costs, the amount credited toward the match will be reduced to less than 7 percent to stay within the 15 percent limitation.

(iii) Non-Federal resources, for the purposes of counting contributions for administrative costs, may include funds from a Community Development Block Grant under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974 and are subject to the recordkeeping and

documentation requirements of that program.

(3) *Taxes, fees, and other charges.* (i) The present value of taxes, fees, or other charges that are normally and customarily imposed but are waived, forgone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this part. Only amounts that would have been imposed after the date a property is acquired by a recipient or other entity for transfer to eligible families, the effective date of the implementation grant agreement if the recipient already owns the property, or the date after an eligible property is acquired directly from an eligible source by an eligible family, as applicable, may be counted towards the match.

(ii) Amounts that would be waived, forgone, or deferred for longer than 20 years from the date a family acquires homeownership interests in the unit may not be counted towards the match.

(iii) The present value of taxes, fees, or other charges waived, forgone, or deferred must be computed by discounting the estimated amount that would be otherwise payable over the time period (up to 20 years) based on a discount rate approved or prescribed by HUD.

(iv) Where the match includes amounts under paragraph (b)(3) of this section, the documents transferring the homeownership interest to the family must evidence the contribution, to the extent the contribution has not already been received.

(4) *Real property.* Real property contributed for use under an approved homeownership program. To the extent properties were acquired with Federal resources or are donated directly to the program from Federal sources, their value is not an eligible match contribution.

(i) The as-is fair market value of eligible property may be counted as a contribution toward the match, determined in accordance with a recent appraisal conducted under procedures established or approved by HUD. The maximum value contributed will be limited as provided in § 572.100.

(ii) When eligible real property is sold to the recipient or its designee from non-Federal sources at a price below fair market value, the differential between the fair market value and the discounted sales price may be counted toward the match.

(iii) Vacant land from any non-Federal source located on existing streets with available utilities (which need not include laterals) may be contributed for use under the program, but only if a structure acquired or donated from an eligible HOPE 3 source will be moved onto it. The total amount of the contribution and any amount paid from HOPE 3 funds for acquisition of the structure, moving, and rehabilitation costs must be within the limits provided in § 572.100.

(5) *Infrastructure.* The fair market value of investment (as approved by HUD), not made with Federal resources, in on-site and off-site infrastructure that directly contributes to a homeownership program. The infrastructure investment may be counted toward the match only if it was completed no earlier than 12 months before the deadline date set by HUD in the NOFA for receipt of implementation grant applications. Investment in infrastructure may include such activities as new or repaired utility laterals connecting eligible property to the main line and new or rebuilt walkways, sidewalks, or curbs on or contiguous to the eligible property. If the investment in infrastructure also benefits other properties, only the share of the costs directly benefiting the eligible property under the homeownership program may be counted toward the match.

(6) *Donated labor.* All donated labor, including sweat equity provided by a homebuyer or homeowner, to be valued at \$10 an hour or at a rate promulgated by HUD in the NOFA, except for donated professional labor, as approved by HUD, including professional labor by homebuyers and homeowners. The donated professional labor will be valued at the fair market value of the work completed. Professional labor is work ordinarily performed by the donor for payment, such as work by attorneys, electricians, carpenters, and architects that is equivalent to work

they do in their occupations. Sweat equity may be counted towards the match only if it is not also counted toward a family's equity.

(7) *Donated materials and supplies.* Donated materials and supplies may be counted toward the match contribution at their fair market value. The recipient must maintain a written enumeration of what donated materials and supplies are being used in the program, as well as documentation of their cost or value.

(8) *Other in-kind contributions.* The reasonable value of in-kind contributions proposed by the applicant in the application and approved by HUD. In reviewing proposed in-kind contributions, HUD will review to ensure:

(i) The proposed contribution is to be used for an eligible activity under the proposed homeownership program;

(ii) The application demonstrates that the proposed in-kind contribution will actually be provided; and

(iii) The proposed value of the contribution is reasonable. In determining whether the value is reasonable, HUD will generally consider the amount such contribution would otherwise cost the program.

[58 FR 36526, July 7, 1993, as amended at 60 FR 36018, July 12, 1995; 61 FR 48798, Sept. 16, 1996]

§ 572.225 Grant agreements; corrective and remedial actions.

(a) *Terms and conditions.* After HUD approves an application for a planning grant or an implementation grant under this part, it will enter into a grant agreement with the recipient setting forth the amount of the grant and applicable terms and conditions. The grant agreement will be effective for purposes of this part and funds may be disbursed under the Cash and Management Information (C/MI) System, described in § 572.230, after the grant agreement has been executed by the authorized official of the recipient and HUD. Among other things, the grant agreement will provide that the recipient agrees:

(1) To carry out the program in accordance with the provisions of this part, applicable law, the approved application, and all other applicable requirements; and

(2) To comply with such other terms and conditions, including record-keeping and reports, as HUD may establish for the purposes of administering, monitoring, and evaluating the program in an effective and efficient manner.

(b) *Corrective and remedial actions.* (1) HUD may withhold, withdraw, or recapture any portion of a grant, terminate the grant agreement, or take other appropriate action authorized under the grant agreement, if HUD determines that the recipient is failing to carry out the approved homeownership program in accordance with the terms of the approved application and this part, including failure to provide the contributions toward the match. Corrective or remedial actions that HUD may instruct the recipient to undertake include;

(i) Preparing and following a schedule of actions or a management plan for properly completing the approved activities;

(ii) Cancelling or revising the affected activities before expending grant funds for them, revising the grant budget as necessary, and substituting other eligible activities;

(iii) Discontinuing draws under the C/MI System, and not incurring further costs for the affected activities;

(iv) Reimbursing its HOPE 3 program account in the amount not used in accordance with this part and the grant agreement; and

(v) In the case of implementation grants, making additional matching contributions in substitution for contributions not in compliance with this part and the grant agreement or submitting to HUD acceptable evidence that matching contributions sufficient to meet the total match required under this part and the grant agreement will be made, before additional draws are made.

(2) If HUD determines that the recipient is not complying with the corrective or remedial actions agreed upon with the recipient, or as otherwise authorized in the grant agreement, HUD may implement the following additional corrective and remedial actions:

(i) Changing the method of payment under the C/MI System to a reimbursement basis;